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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,841	09/19/2003	Richard W. Berger	BDGOP001X1	6045

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EXAMINER	
SHAH, AMEE A	
ART UNIT	PAPER NUMBER
3625	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/665,841	BERGER ET AL.	
	Examiner	Art Unit	
	Amee A. Shah	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-40 are pending in this action.

Response to Amendment

Applicant's amendment, filed, November 13, 2006, has been entered. Claims 41-47 have been cancelled. Claims 1-4, 18, 21-24, 27, and 38 have been amended.

Response to Arguments

Applicant's arguments filed November 13, 2006, have been fully considered but they are not persuasive.

Regarding applicant's argument that the term "specified" which replaces the term "selected" in amended claims 1-4, 18, 21-24, 27 and 38, clarifies that it is the supplier that specifies the fulfillment policy, not the buyer, and therefore the prior art Franklin does not disclose this limitation (Remarks, pages 8-9), the Examiner disagrees. Claims and the terms within are given their broadest, reasonable definition, and the broadest, reasonable interpretation of "specified" does not differentiate the term from "selected." The limitation that the supplier specifies the fulfillment policy, not the buyer, is not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding applicant's argument with reference to claims 1-4 and its dependencies, that neither Franklin nor Webber solves the problem of allowing the supplier to participate on the

Internet with retailers without violating any supplier-retailer distribution agreements or cannibalizing its retailers (Remarks, page 9), these limitations are not recited in the claims. The claims are not interpreted as "allowing the supplier to participate on the Internet with retailers without violating any supplier-retailer distribution agreements or cannibalizing its retailers." Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding applicant's argument with reference to claims 1-4 and its dependencies, that Webber does not solve the problem of allowing the supply chain enterprise to participate on the Internet directly with the customer (Remarks, page 10), these limitations are not recited in the claims. The claims are not interpreted as "allowing the supply chain enterprise to participate on the Internet directly with the customer." Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Examiner Note

Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in

entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7, 14, 15, 18-27, 34, 35 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin et al., US 6,125,352, cited by Applicant (hereinafter referred to as "Franklin") in view of Webber, WO 98/34167, cited by Applicant (hereinafter referred to as "Webber").

Referring to claims 1 and 2. Franklin discloses a system for coordinating the distribution of products from a given or a plurality of product suppliers to consumers in a network environment, comprising a graphical consumer interface configured to display product information for products from a plurality of suppliers and to receive consumer product orders from consumers to suppliers for products of a plurality of suppliers (Figs. 1 and 4, col. 2, lines 28-53, col. 7, lines 28-42, 49-58 and 65-67, col. 8, lines 1-18 and col. 22, lines 10-17). Franklin does not teach an order flow controller configured to selectively route consumer product orders for one or more products of a given supplier to said given supplier or to one or more retailers

identified by said given supplier in accordance with the specified fulfillment policies of said given supplier.

Webber, in the same field of endeavor and/or pertaining to the same issue, discloses a system of buying and distributing products including an order flow controller configured to selectively route consumer product orders for one or more products of a given supplier to said given supplier or to one or more retailers identified by said given supplier in accordance with the specified fulfillment policies of said given supplier (Figs. 2 and 4, page 15, lines 6-12, page 41, lines 15-17, and page 51, line 21 – note the fulfillment policies are the operational instructions in a digital contract authorized by the parties, which can include terms and conditions of conventional contracts such as fulfillment instructions).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Franklin to include the teachings of Webber to allow for an order flow controller configured to selectively route consumer product orders for one or more products of a given supplier to said given supplier or to one or more retailers identified by said given supplier in accordance with the specified fulfillment policies of said given supplier. One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would allow for a more streamlined manual staging and fulfilling of orders and to better serve both small and large businesses.

Referring to claim 3. Franklin in view of Webber discloses the system of claim 1 or 2 wherein the order flow controller is configured to not accept consumer orders for one or more

products of a given supplier in accordance with that supplier's specified fulfillment policy (Webber, page 22, lines 13-15). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would allow for the taking of orders capable of being fulfilled in accordance with the supplier's policies, thereby reducing the frustration of consumers in unfulfilled order and increasing customer satisfaction.

Referring to claim 4. Franklin in view of Webber discloses the system of claim 1 or 2 wherein the order flow controller is configured to route consumer product orders for one or more products of a given supplier to a product order list accessible by said given supplier or by one or more retailers identified by said given supplier in accordance with the specified fulfillment policies of said given supplier (Webber, page 20, lines 19-24 and page 22, lines 11-30). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would effectively and seamlessly fulfill the consumer's order for products.

Referring to claim 5. Franklin in view of Webber discloses the system of claim 4 further comprising a back room manager configured to remove product orders from the product order list upon receipt of a fulfillment acceptance indication from a retailer or supplier (Franklin, col. 21, lines 45-67 and col. 22, lines 1-7).

Referring to claim 6. Franklin in view of Webber discloses the system of claim 5 wherein the back room manager is configured to enable the given supplier to fulfill selected product orders identified on the product order list (Franklin, col. 27, lines 11-28 and 44-50).

Referring to claim 7. Franklin in view of Webber discloses the system of claim 6 wherein the back room manager is configured to enable the given supplier to fulfill selected product orders identified on the product order list only after a preselected period of time has passed since the product order was received (Webber, page 23, lines 25-30, note the preselected period of time is the traditional time expirations event to trigger contractual operations for which timing is specified within the contracts). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would allow for enough time to pass for the sale request at a point of sale to be transmitted and trigger the initiation of operations for the supply chain.

Referring to claim 14. Franklin in view of Webber discloses the system of claim 1 or 2 further comprising a price filter configured to transmit product price information and product availability information to the consumer interface (Webber, page 51, lines 15-31 and page 53, lines 1-16 – note the product price information is the price of the goods or services and the product availability is the inventory management and shipping logistics). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would better inform the

consumer of the details of the order, decreasing the opportunities of errors, and increasing consumer satisfaction.

Referring to claim 15. Franklin in view of Webber discloses the system of claim 14 wherein the price filter is configured to transmit supplier specified product prices (Webber, page 52, lines 1-6). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would provide the customer with the more specific information on pricing, thereby increasing customer satisfaction.

Referring to claim 18. Franklin in view of Webber discloses the system of claim 1 or 2 further comprising an escrow account manager configured to retain consumer payments for a specified period of time and to distribute retained funds (Webber, page 28, line 30 through page 29, line 25 – note that the escrow account manager is the invented system wherein the cash settlement can be delayed until after the parties approve or disapprove the settlement). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would provide assurance to the customer that they will not be charged until the order is fulfilled or they are satisfied, increasing consumer trust and satisfaction.

Referring to claim 19. Franklin in view of Webber discloses the system of claim 18 wherein the escrow account manager is configured to distribute retained funds to an entity that

shipped a product to a consumer (Webber, Fig. 4 and col. 4, lines 53-57). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would allow for the shipper to obtain payment.

Referring to claim 20. Franklin in view of Webber discloses the system of claim 18 wherein the escrow account manager is configured to distribute funds retained for a given product order to a supplier that fulfilled the given product order, one or more retailers identified by that supplier, or to a combination of supplier and one or more of said retailers (Webber, Fig. 4 and page 32, lines 26-29 – note that the configuration to distribute funds retained is the system providing for conventional retailer connections as well as banks). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would allow for a system connected to a multitude of sellers, enterprises and banks, thereby providing the consumer with more choices and increased ease and seamlessness.

Referring to claims 21-27, 34, 35 and 38-40. All of the limitations in method claims 21-27, 34, 35 and 38-40 are closely parallel to the limitations of apparatus claims 1-7, 14, 15 and 18-20, respectively, analyzed above and are rejected on the same bases.

Claims 8, 9, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin in view of Webber as applied to claims 1, 2, 21 and 22 above, and further in

view of Johnson et al., US 6,055,516, cited by Applicant (hereinafter referred to as "Johnson")

Referring to claim 8. Franklin in view of Webber discloses the system of claims 1 and 2, discussed above. While Franklin in view of Webber does teach that data for each product is organized into groups (Franklin, col. 6, lines 45-66), it does not disclose wherein the consumer interface is configured to display price and availability information for the products of each of the suppliers organized by product category.

Johnson, in the same field of endeavor and/or pertaining to the same issue, discloses an electronic sourcing system maintaining a catalog of product information, checks availability of selected items and generates one or more purchase orders, including a consumer interface configured to display price and availability information for the products of each of the suppliers organized by product category (see Abstract, col. 5, lines 23-32, col. 6, lines 20-25 and col. 9, lines 42-55).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Franklin in view of Webber to include the teachings of Johnson to allow for the consumer interface to be configured to display price and availability information for the products of each of the suppliers organized by product category. One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would allow for customers to be able to better compare prices and availability of products so that they can make a better decision, thereby increasing customer satisfaction, as suggested by Johnson.

Referring to claim 9. Franklin in view of Webber and further in view of Johnson discloses the system of claim 8 further comprising a search engine configured to enable a consumer to search through the products of a given category by supplier, by product type, by product feature, or by a combination of two or more of these identifiers (Johnson, col. 4, lines 51-65). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would provide for easier browsing of catalogs and selecting of products.

Referring to claims 28 and 29. All of the limitations in method claims 28 and 29 are closely parallel to the limitations of apparatus claims 18 and 19, respectively, analyzed above and are rejected on the same bases.

Claims 10-13 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin in view of Webber as applied to claims 1, 2, 21 and 22 above, and further in view of Knowlton et al., US 6,061,057, cited by Applicant (hereinafter referred to as "Knowlton").

Referring to claim 10. Franklin in view of Webber discloses the system of claims 1 and 2, as discussed above, but does not disclose wherein the consumer interface is configured to enable a consumer to display selected product representations in a separate scratch pad window.

Knowlton, in the same field of endeavor and/or pertaining to the same issue, discloses an apparatus and method for creating and distributing graphical user interfaces for application programs including a consumer interface configured to enable a consumer to display selected

product representations in a separate scratch pad window (col. 4, line 14 through col. 7, line 20 – note the product representations are the displayable images or icons).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Franklin in view of Webber to include the teachings of Knowlton to allow for the consumer interface to be configured to enable a consumer to display selected product representations in a separate scratch pad window. One of ordinary skill in the art would have been motivated to do so based on the suggestion taught by Knowlton that that doing so would facilitate consumer browsing and allow for more efficient presentation of goods and transactions, thereby increasing customer satisfaction and sales (col. 2, lines 8-28).

Referring to claim 11. Franklin in view of Webber and further in view of Knowlton discloses the system of claim 10 wherein the consumer interface is configured to enable a consumer to remove product representations from the scratch pad window (Knowlton, col. 33, lines 41-59 – note that removing product representations is inherently included in the creation of desired lists). One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would facilitate customer selecting and browsing.

Referring to claim 12. Franklin in view of Webber and further in view of Knowlton discloses the system of claim 10 wherein the consumer interface is configured to enable a consumer to drag a selected product representation from a product previews window to the scratch pad window (Knowlton, col. 33, lines 41-59). One of ordinary skill in the art would have

been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would allow for more efficient presentations of goods and transactions.

Referring to claim 13. Franklin in view of Webber and further in view of Knowlton discloses the system of claim 12 wherein the consumer interface is configured to enable a consumer to initiate a product order from the scratch pad window or from the product preview window, or from both windows (Knowlton, col. 17, lines 5-10 – note the initiation of a product order is the updating of offering on a web page and the adding or removal of VLOs and not the entire web page). One of ordinary skill in the art would have been motivated to do so based on the suggestion taught by Knowlton that doing so would allow for immediate or delayed purchasing/drafting, thereby increasing customer satisfaction.

Referring to claims 30-33. All of the limitations in method claims 30-33 are closely parallel to the limitations of apparatus claims 10-13, respectively, analyzed above and are rejected on the same bases.

Claims 16, 17, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin in view of Webber as applied to claims 15 and 35 above, and further in view of Allsop et al., US 5,970,471, cited by Applicant (hereinafter referred to as "Allsop").

Referring to claim 16. Franklin in view of Webber discloses the system of claim 15 with contracts which supply prices during preselected periods of time (Webber, page 23, line 26 and

page 41, lines 20-25), but does not disclose wherein the price filter is configured to transmit retailer specified product prices during that certain supplier-selected period of time.

Allsop, in the same field of endeavor and/or pertaining to the same issue, discloses a system and method for performing electronic commerce with links from product manufacturers to authorized dealers with custom order interfaces, including a price filter configured to transmit retailer specified product prices (see Abstract – note the retailers are the dealerships).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Franklin in view of Webber to include the teachings of Allsop to allow for the price filter to be configured to transmit retailer specified product prices during that certain supplier selected period of time. One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that that doing so would allow for more informed and knowledgeable customers who are able to find out the retailer specified prices.

Referring to claim 17. Franklin in view of Webber and further in view of Allsop discloses the system of claim 16 wherein the price filter is configured to transmit only a selected number of the lowest retailer specified product prices (Allsop, see Abstract – note the selected number of prices are the prices of the selected dealers). One of ordinary skill in the art would have been motivated to do so based on the suggestion taught by Allsop that that doing so would channel business to certain retailers over others.

Referring to claims 36 and 37. All of the limitations in method claims 36 and 37 are closely parallel to the limitations of apparatus claims 16 and 17, respectively, analyzed above and are rejected on the same bases.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Alvin, US 7,139,731 B1, discloses a system and method that provides a virtual store-front utilizing other's warehouse approach by using a dynamic distributor selection processing system to select among a plurality of distributors based on a flexible rule-based algorithm (*see, e.g.,* Abstract and cols. 4-12).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAS

January 17, 2007

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